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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/071,587	02/08/2002	Joseph J. Pantuso	NA11P096/02.015.01	2682
28875	7590	12/13/2006	EXAMINER	
Zilka-Kotab, PC P.O. BOX 721120 SAN JOSE, CA 95172-1120			TRUONG, LECHI	
			ART UNIT	PAPER NUMBER
			2194	
DATE MAILED: 12/13/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/071,587

Applicant(s)

PANTUSO ET AL.

Examiner

LeChi Truong

Art Unit

2194

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

  
**WILLIAM THOMSON**  
SUPERVISORY PATENT EXAMINER  
PATENT OFFICE CENTER 2100

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. Claims 1-29 are presented for the examination.

#### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 15-29 are rejected under 35 U.S.C. 101 because they are directed to non-statutory subject matter.
3. Claims 15-21, 22 are non-statutory because it is not tangibly embodied in a manner so as to be executable as the only hardware is in an intended use statement.

Claims 15, 22 define "System" in the preamble and the body of the claim recites "selecting", "installing", "wrapping". Selecting, installing, wrapping appear to be software functions, which are not tangible. Therefore, claims 15, 22 are non-statutory because it recites a system claim that comprises non-tangible embodiments.

4. Claim 23 is rejected under 35 U.S.C 101 because the claimed invention is directed to non-statutory subject matter as not being tangible because the data structure stored in a memory claim do not require use of hardware computer to perform, and would not result in a practical application producing a useful, concrete, an tangible result to form the basis of statutory subject matter under 35 USC 101.

#### ***Claim Rejections - 35 USC § 103***

Art Unit: 2194

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 8, 15, 22-24, 26, 29 are rejected under 35 U.S.C. 103(a) as being unpatentable in view of Lee (US 2003/0135465 A1) in view of Sitbon et al (US. Patent 5,568,487) and further in view of Schwabe (US. 6,651,186 B1).

**As to claim 1**, Lee teaches the invention substantially as claimed including: an application (an application 516, para [0141], ln 4/ para [0145], ln 5-7), a first application program interface (the open API 506, para [0142], ln 1-5/ specific the secure APIs 508, para [0145], ln 6-8), the application adapted for working in conjunction with a first application programming interface to gain access (para [0145], ln 6-8), the first application program interface adapted for permitting the application to gain access ( para[0141], ln 5-7/ para[0145], ln 6-8), installing API( present API, para[0129], ln 1-2), a second application program interface[ the secure APIs have restricted access to content, para[0142], ln 7-8/ at least one application programming interface( API), the API prevents block level access to the content via a host, right col, ln 14-19), a second application program interface adapted for precluding the applications from accessing ( para[0142], ln 7-8, right col, ln 14-19).

Lee does not explicitly teaches network access, wrapping the selected applications for allowing the applications to access the network via the second application interface, where the

Art Unit: 2194

selected application would otherwise be precluded network access by the second application program interface. However, Sitbon teaches network access (access to these network, col 1, ln 1-12), wrapping the selected applications for allowing the applications to access the network via the second application interface (the wrapper W is designed in the form of a library that assures the interface service between the application APP intended so that it can be used in a TCP/IP network and the OSI communication layer (OIS network), col 4, ln 3-8/these various calls SC+SY are rerouted to the wrapper W is to automatically convert the addresses specific to the TCP/IP address into address the OSI/CO network and to enable the passage from the TCP/IP protocol to the OSI/CO protocol, col 3, ln 5-12), where the selected application would otherwise be precluded network access by the second application program interface ( after conversion , the calls SC+CO interface intended for TCP/IP network are transmitted to the XTT interface so to be used directly in the OSI/CO interface, col 3, ln 11-14/ the call can not be used to access to OSI/CO interface until the call is converted to the address of the OSI/OC network. Therefore, the calls are impossible to be used by the application to access network).

It would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the teaching of Lee and Sitbon because Sitbon's wrapping the selecting application for allowing the selected applications to access the network via the second application program interface would improve the efficiency of Lee's system by allowing the TCP/IP network access to the OSI/CO network that does not require modifying the source code.

Lee and Sitbon do not explicitly teach selecting applications for working in conjunction with a first application program interface. However, Schwabe teaches selecting applications for

Art Unit: 2194

working in conjunction with a first application program interface (determine whether the first program unit implementation is consistent with a first program unit API, col 12, ln 13-16).

It would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the teaching of Lee, Sitbon and Schwabe because Schwabe's selecting applications for working in conjunction with a first application program interface would improve the efficiency of Lee and Sitbon's systems by allowing program verifying to ensure binary compatibility.

**As to claims 8, 15 and 22-24**, they are apparatus claims of claim 1; therefore, they are rejected for the same reason as claim 1 above.

**As to claim 26**, Sitbon teaches the application program include a word processor application, a database program, a browser program, a development tool program, a drawing program, image editing program, and a communication program (col 1, ln 40-45).

**As to claim 29**, Sitbon teaches the second application program interface is separate from the first application program interface (col 2, ln 25-30).

6. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable Lee (US. 2003/0135465 A1) in view of Sitbon et al (US. Patent 5,568,487), in view of Schwabe (US. 6,651,186 B1), as applied to the claim 1, above and further in view of OPT (Optimizations).

**As to claim 2**, Sitbon teaches compressing data that provide compression of data associated with the applications (col 3, ln 9-12).

Art Unit: 2194

Lee, Sitbon and Schwabe do not teach a portable executable image. However, OPT teaches a portable executable image (a portable executable image, page 2, ln 24-26/ page 3, ln 16-19).

It would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the teaching of Lee, Sitbon, Schwabe and OPT because OPT's a portable executable image would improve the use of Moeller, Sitbon, Schwabe's systems by decreasing the image size and increasing the program speed at a cost of increased link time.

7. Claims 2-6, 9-13, 16-20, 25 are rejected under 35 U.S.C. 103(a) as being unpatentable Lee (US 2003/0135465 A1) in view of Sitbon et al (US. Patent 5,568,487), in view of Schwabe (US. 6,651,186 B1), as applied to the claim 1, in view of OPT (Optimizations) and further in view of Moeller (US. Patent 5,473,777).

As to claim 3, Lee, Sitbon, Schwabe and OPT do not teach, extractor the data in the PE image. However, Moeller teaches extractor the data in the PE image (col 19, ln 67 to col 20, ln 1-5/col 22, ln 43-45/ col 23, ln 35-37/ col 24, ln 10-15).

It would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the teaching of Lee, Sitbon, Schwabe, OPT and Moeller because Moeller's extractor the data in the PE image would improve the use of Moeller, Sitbon, Schwabe and OPT's systems by enabling an object oriented application to access in an object oriented manner a procedural operating system having a native procedural interface.

Art Unit: 2194

**As to claim 4**, Moeller teaches the extractor code is further adapted for interfacing with the second application program interface (col 9, ln 1-5). The extractor code is wrapper for implementing the API of the class library.

**As to claim 5**, Moeller teaches the wrapper is further adapted for identifying a location in memory (col 24, ln 28-32).

**As to claim 6**, Moeller teaches the location in memory is where a routine is stored for allowing the selected applications to access the network (col 9, ln 17-20).

**As to claims 9-13, 16-20**, they are apparatus claims of claims 2-6; therefore, they are rejected for the same reasons as claims 2-6 above.

**As to claim 25**, OTP teaches a header, a stub program, a file signature, a text section header, a bss section header, a rdata section header, and a debug section header (the sections in the portable executable image, page 2, ln 24).

8. **Claims 7, 14 and 21** are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee (US 2003/0135465 A1) in view of Sitbon et al (US. Patent 5,568,487) in view of Schwabe (US. 6,651,186 B1), as applied to the claim 1 above, and further in view of Alexander et al (US. Patent 6,748,343 B2).

**As to claim 7**, Lee, Schwabe and Sitbon do not teach a user to select the application to be allowed to access the network. However, Alexander teaches a user to select the application to be allowed to access the network (a user interface for obtaining a user selection of client, premises, location, monitoring device... and to transmit the data to the processing server, col 19, ln 53-56).



Art Unit: 2194

23. It would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the teaching of Lee, Sitbon, Schwabe and Alexander because Alexander's a user to select the application to be allowed to access the network would improve the efficiency of Lee, Sitbon, Schwabe's systems by allowing the computer to transmit the user selection to a processing server which configures one or more monitoring devices.

As to claims 14, 21, they are apparatus claims of claim 7; therefore, they are rejected for the same reason as claim 7 above.

9. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lee (US 2003/0135465 A1) in view of Sitbon et al (US. Patent 5,568,487), in view of Schwabe (US. 6,651,186 B1), as applied to the claim 1 above, and further in view of Michael Norton (Basic of network Segmentation: Switching and bridging).

As to claim 27, Lee, Sitbon, Schwabe do not teach the network utilizing a network card. However, Michael teaches (a network card will attempt one more to transmit the frame, sec: Consuming bandwidth on a single segment, ln 4-5).

It would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the teaching of Lee, Sitbon, Schwabe and Michael because Michael's network card would improve the use of Lee, Sitbon, Schwabe's systems by providing the listen to the physical layer for the communication on the OIS network.

Art Unit: 2194

10. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lee (US 2003/0135465 A1) in view of Sitbon et al (US. Patent 5,568,487) and further in view of Schwabe (US. 6,651,186 B1), as applied to claim 1 above, and further in view of Bermudez et al (US. 6,874,149 B1).

As to claim 28, Lee, Sitbon, Schwabe do not teach a modify copy of the first application program interface. However, Bermudez teaches a modify copy of the first application program interface (this modified copy of the API, col 4, ln 22-25).

It would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the teaching of Lee, Sitbon, Schwabe and Bermudez because Bermudez's a modify copy of the first application program interface would improve the use of Lee, Sitbon, and Schwabe's systems by allowing a component such as an unprotected memory dynamically linked library to prove an alternative implementation to an API function.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LeChi Truong whose telephone number is (571) 272 3767. The examiner can normally be reached on 8 - 5.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomson, William can be reached on (571) 272 3718. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2194

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIP. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIP system, contact the Electronic Business Center (EBC) at 866-217-9197(toll-free).

LeChi Truong

December 7, 2006

  
**WILLIAM THOMSON**  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100